

BY OVERNIGHT MAIL

March 22, 2005

Mary Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Docket 04-87; CTC Communications Corp. Motion for Reconsideration

Dear Secretary Cottrell:

CTC Communications Corp. ("CTC") herewith files an original and eight (8) copies of its Motion for Reconsideration. A diskette containing an electronic copy of this document in Microsoft Word is enclosed.

Please date-stamp the enclosed extra copy of this filing and return it in the attached self-addressed, postage pre-paid envelope provided.

Respectfully submitted,



Russell M. Blau
Edward W. Kirsch
Danielle C Burt

cc: Service List

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

CTC COMMUNICATIONS CORP.'S)	
FORMAL COMPLAINT CONCERNING)	
UNLAWFUL REFUSAL)	
BY VERIZON MASSACHUSETTS)	DTE No. 04-87
TO PROVIDE UNBUNDLED NETWORK)	
ELEMENTS AT TARIFFED RATES)	

**MOTION FOR RECONSIDERATION
OF THE DEPARTMENT DECISION IN D.T.E. 04-87**

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Dated: March 22, 2005

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1. On March 3, 2005, the Massachusetts Department of Telecommunications and Energy (“Department” or “DTE”) dismissed the Complaint by CTC Communications Corp. (“CTC”) against Verizon New England, Inc. d/b/a Verizon Massachusetts (“Verizon”). The Department dismissed the Complaint because it found that CTC was not entitled to relief based on the terms of M.D.T.E. No. 17 and that CTC’s contractual rights were already being arbitrated in D.T.E. 04-33.¹ Pursuant to M.G.L. ch. 25, § 5 and 220 CMR § 1.11(10), CTC requests the Department to reconsider its final decision for the reasons stated below.

II. STANDARD OF REVIEW

2. The Department’s procedural rule, 220 CMR § 1.11(10), authorizes a party to file a motion for reconsideration within twenty days of service of a final Department order. Reconsideration of a previously decided issue is granted only when extraordinary circumstances dictate that the Department take a fresh look at the record for the

¹ *CTC Communications Corp.*, D.T.E. 04-87, at 3 (March 3, 2005) (“Order”).

express purpose of substantively modifying a decision reached after review and deliberation.²

3. A motion for reconsideration may be based on the argument that the Department's treatment of an issue was the result of a mistake or inadvertence.³

III. PARTIES AND JURISDICTION

4. Complainant, CTC Communications Corp., is a corporation organized and existing under the laws of the Commonwealth of Massachusetts, with principal offices located at 220 Bear Hill Road, Waltham, MA 02451-1101. CTC is authorized to operate as a common carrier in the Commonwealth of Massachusetts, and purchases unbundled network elements and other services from Verizon for use in providing CTC's common carrier services.

5. Defendant, Verizon New England, Inc. d/b/a Verizon Massachusetts, is a corporation having its principal place of business at 185 Franklin Street, Boston, MA 02110-1585. Verizon is authorized to operate as a common carrier in the Commonwealth of Massachusetts, and provides intrastate telecommunications services pursuant to a variety of tariffs filed with the Department. Verizon is also an "incumbent local exchange carrier" for purposes of sections 251 and 252 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251, 252.

² *North Attleboro Gas Company*, D.P.U. 94-130-B at 2 (1995); *Boston Edison Company*, D.P.U. 90-270-A at 2-3 (1991); *Western Massachusetts Electric Company*, D.P.U. 558-A at 2 (1987).

³ *Massachusetts Electric Company*, D.P.U. 90-261-B at 7 (1991); *New England Telephone and Telegraph Company*, D.P.U. 86-33-J at 2 (1989); *Boston Edison Company*, D.P.U. 1350-A at 5 (1983).

6. Pursuant to 220 CMR § 1.11(10), the Department has jurisdiction to consider a motion for reconsideration of a final Department order.

IV. STATEMENT OF FACTS

A. Procedural History

7. CTC filed its Complaint on September 24, 2004. CTC requested the Department, among other items, to prohibit Verizon from billing CTC any surcharge or rate element for its UNE-P services or UNE-P replacement services that is not contained in its applicable approved tariffs; to require Verizon to credit CTC's account for any non-tariffed rates or surcharges billed by it to date, or during the pendency of this Complaint; and to prohibit Verizon from terminating, disconnecting, or in any way impairing its service to CTC due to CTC's refusal to pay the disputed surcharges that are the subject of this Complaint.

8. Verizon submitted an Answer on October 8, 2004. Verizon claimed that CTC was not entitled to relief because, among other things, CTC's access to local switching is governed solely by the terms of its interconnection agreement, rather than the terms of Verizon's tariffs.

9. The Department reviewed the pleadings and entered its final order on March 3, 2005. The Department dismissed the Complaint because it found that CTC was not entitled to relief based on the terms of M.D.T.E. No. 17 and that CTC's contractual rights were already being arbitrated in D.T.E. 04-33.

B. Events Leading Up to the Dispute

10. On May 18, 2004, Verizon sent a letter to CTC and nearly every CLEC in Massachusetts, if not all such CLECs, stating that "after August 22, 2004, Verizon will no longer provide, under section 251(c)(3) of the Act, either: (i) unbundled Enterprise

Switching, whether alone or in combination with any other network element ..., or (ii) unbundled shared transport for use with Enterprise Switching.”⁴ The letter stated that, after August 22, 2004, Verizon would “continue to make Enterprise level services available on a resale basis ... under Section 251(c)(4) of the Act.” However, Verizon asserted that it would “begin billing any Enterprise UNE-P arrangements that remain in place after August 22, 2004 at a rate equivalent to the Section 251(c)(4) resale rate for business service.”⁵ Verizon’s May 18 letter did not specify the amount of the surcharges it sought for its replacement product for enterprise UNE-P.

11. On July 2, 2004, Verizon sent a letter to nearly every CLEC in Massachusetts, including CTC, that listed the “surcharges” that Verizon intended to add to the UNE Port monthly recurring rate in each state in its operating territory, above and beyond the tariffed rate for these services, allegedly to bring the rate for its replacement service for Enterprise UNE-P to a rate that Verizon views as “a rate equivalent to the Section 251(c)(4) resale rate for business service applicable in that jurisdiction.”⁶ In Massachusetts, Verizon declared that it intended to impose a DS1 Port Surcharge of \$802.14 and an

⁴ CTC Complaint, Exhibit 1, Letter from Verizon’s Jeffrey A. Masoner, Vice President, Verizon Wholesale Marketing, dated May 18, 2004, *Notice of Discontinuance of Unbundled Network Elements*, at 1 (“*Enterprise UNE-P Letter*”). The FCC has defined “Enterprise Switching” as local circuit switching used “for the purpose of serving end-user customers using DS1 capacity and above loops[.]” 47 CFR § 51.319(d)(3) (vacated on other grounds in *USTA II*).

⁵ CTC Complaint, Exhibit 1, *Enterprise UNE-P Letter*, at 2.

⁶ CTC Complaint, Exhibit 2, Letter from Verizon’s Jeffrey A. Masoner, Vice President, Verizon Wholesale Marketing, dated July 2, 2004, *Notice of Discontinuance of Unbundled Network Elements*, at 1 and Attachment 1 (“*Enterprise UNE-P Rate Letter*”).

ISDN Primary Rate Interface (“PRI”) Port Surcharge of \$901.52 on top of the tariffed UNE rates for these services.⁷

12. On May 18, 2004, Verizon sent another letter to CLECs, including CTC, stating that after August 22, 2004, Verizon would no longer provide unbundled access under Section 251(c)(3) of the Act to either: “(i) unbundled local switching subject to the Four Lines Carve-Out Rule,^[8] whether alone or in combination with any other network element ... or (ii) unbundled shared transport for use with unbundled local circuit switching subject to the Four Lines Carve-Out Rule.”⁹ Further, Verizon stated that after August 22, 2004, it would “make local dialtone services available for resale” and begin “billing any Four Lines or More UNE-P arrangements that remain in place after August 22, 2004 at a rate equivalent to the Section 251(c)(4) resale rate for business services applicable in that jurisdiction.”¹⁰

13. On June 23, 2004, Verizon submitted to the Department a Transmittal Letter and proposed Amendments to its UNE tariff in Massachusetts (DTE MA Tariff No.

⁷ *Id.* at Attachment 1.

⁸ The FCC’s so-called four line carve-out rule provided that notwithstanding its general duty to unbundled local switching, an ILEC “shall not be required to unbundle local circuit switching for requesting telecommunications carriers when the requesting telecommunications carrier serves end-users with four or more voice grade (DS0) equivalents or lines, and the ILEC has local circuit switches located in:” (1) the top 50 Metropolitan Statistical Areas, and (2) in Density Zone 1, as defined on January 1, 1999, and on condition that the ILEC offers Enhanced Extended Loops to requesting carriers. 47 C.F.R. § 51.317(c)(1999); *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 99-238, 15 FCC Rcd 3696, Third Report and Order and Further Notice of Proposed Rulemaking (Nov. 5, 1999) (“*UNE Remand Order*”).

⁹ CTC Complaint, Exhibit 3, Letter from Verizon’s Jeffrey A. Masoner, Vice President, Verizon Wholesale Marketing, dated June 18, 2004, *Notice of Discontinuance of Unbundled Network Elements*, at 1 and Attachment 1 (“*Four Line UNE-P Letter*”).

¹⁰ *Id.* at 2.

17) to discontinue provisioning enterprise switching, switching subject to the FCC's four line carve-out rule, and associated shared transport and related combinations of UNEs, purportedly to effectuate changes in law under the FCC's *Triennial Review Order*.¹¹

14. On July 2, 2004, Verizon sent a follow-up letter to CTC and other CLECs regarding its intentions to impose a surcharge on the applicable rates for four lines or more UNE-P.¹² In this letter, Verizon identified the rate centers by CLLI code that it believes are included in the FCC's four line carve out within Massachusetts and other states.¹³ Most importantly, Verizon provided a listing of the surcharges that it intends to add to the tariffed four lines UNE-P port monthly recurring rates. The surcharges imposed by Verizon in Massachusetts range from \$12.45 at CLLI BSTNMABE to \$7.85 for CLLI NTCKMAEC, above the tariffed rates for these services.¹⁴ In many cases, the surcharge would result in a price that is nearly double the applicable UNE-P rate that would necessarily be passed onto small businesses and other customers in Massachusetts.

15. Verizon's four letters made it clear that it was replacing Enterprise UNE-P and four lines or more UNE-P services offered at TELRIC rates pursuant to Section 251 with replacement services and surcharges. Verizon failed to file tariff provisions regard-

¹¹ Transmittal Letter TT 04-49, from Verizon's John Conroy, Vice President Regulatory Massachusetts, to Mary Cottrell, Secretary Massachusetts DTE, June 23, 2004 ("*Verizon Tariff Transmittal Letter*"). *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket Nos. 01-338, 96-98, 98-147, FCC 03-36, 18 FCC Rcd. 16,978, Report Order and Order on Remand and Further Notice of Proposed Rulemaking (August 21, 2003) ("*Triennial Review Order*"), *vacated and remanded in part, United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004).

¹² CTC Complaint, Exhibit 4, Letter from Verizon's Jeffrey A. Masoner, Vice President, Verizon Wholesale Marketing, dated July 2, 2004, *Notice of Discontinuance of Unbundled Network Elements*, at 1 and Attachment 4 ("*Four Lines UNE-P Rate Letter*").

¹³ CTC Complaint, Exhibit 4, *Four Lines UNE-P Rate Letter*, at 1, and Attachment 1.

¹⁴ *Id.* at Attachment 1.

ing its UNE-P replacement services and the surcharges that it sought to impose on CLECs in Massachusetts. Verizon acted as a common carrier when it made this offer, and as such, it should have tarified the new rates and terms.

V. STATEMENT OF OBJECTIONS TO THE DECISION

16. The Department dismissed CTC's Complaint because it mistakenly concludes that CTC is not is not entitled to relief based upon the terms of Verizon's intrastate tariffs. The Department misconstrues Verizon's actions. Verizon maintains that CTC has no right to UNE-P under the terms of its interconnection agreement at TELRIC rates under Section 251 of the Act. Thus, Verizon seeks to unilaterally impose UNE-P replacement products and surcharges upon CTC and other CLECs on a common carrier basis. These intrastate, UNE-P replacement products and surcharges are not governed by CTC's agreement; therefore, they must be tarified under Massachusetts law.

17. The Department inadvertently dismissed CTC's Complaint because it failed to recognize that the terms and surcharges associated with the wholesale, intrastate, UNE-P replacement products Verizon sought to impose upon CTC must be tarified. Moreover, the issues of Verizon's obligation to tariff these terms and surcharges, and whether they are just and reasonable, will not be addressed in D.T.E. 04-33. In short, contrary to the Department's mistaken conclusion, CTC's access to these common carrier UNE-P replacement services will not be addressed in D.T.E. 04-33.

VI. ARGUMENT

18. CTC's Motion for Reconsideration should be granted because the Department's treatment of several material issues raised in CTC's Complaint are the result

of a mistake or inadvertence, or are based upon facts that were misrepresented by Verizon.¹⁵ The Department mistakenly concluded that CTC is not is not entitled to relief based upon the terms of Verizon's intrastate tariffs and that the "issue of access" to the services in question will be resolved in D.T.E. 04-33.¹⁶ The former conclusion rests on Verizon's erroneous proposition, that CTC's rights must be resolved "solely by its interconnection agreement," not through any of Verizon's intrastate tariffs.¹⁷ Verizon's proposition ignores the fact that Verizon itself maintains that CTC has no right at present to obtain UNE-P under its interconnection agreement at Section 251 and 252(d) rates.¹⁸ Thus, under Verizon's reading of the Agreement, CTC's interconnection agreement cannot govern the rates for Verizon's UNE-P replacement products and their associated surcharges because the agreement only encompasses Section 251 obligations and the relevant Section 251 obligations are no longer in effect. Because there is (or will, after the Agreement is amended to conform to current law) no longer a Section 251 obligation to provide unbundled local switching, the terms for these UNE-P replacement products will not be addressed in D.T.E. 04-33.

19. Further, the Department may have been misled by Verizon's statements that "Verizon MA intends to offer enterprise switching and other Section 271 arrangements in the state solely through individually-negotiated contracts based on the particular

¹⁵ See, e.g., *Commonwealth Electric Co.*, D.P.U. 92-3C-1A, at 3-6 (1995); *Massachusetts Electric Co.*, D.P.U. 90-261-B, at 7; *New England Telephone and Telegraph Co.* D.P.U. 86-33-J, at 2 (1989).

¹⁶ Order, at 3.

¹⁷ Verizon's Answer, at 1; Order, at 3.

¹⁸ CTC disagrees with Verizon's interpretation of its Interconnection Agreement and maintains that it is entitled to obtain enterprise and 4 line or more UNE-P services at TELRIC rates at least until the Parties have amended their interconnection agreement.

circumstances, needs and requirements of the carrier customers.”¹⁹ In fact, Verizon and CTC have not entered into an “individually negotiated contract” for a Section 271 arrangement or any other UNE-P replacement product. Instead, Verizon has sought to unilaterally impose a UNE-P replacement product and surcharges on CTC and other CLECs, *on a common carrier basis*, through its May 18, 2004 and its July 2, 2004 letters.²⁰ These letters were sent to all, or nearly all, CLECs operating in Massachusetts in an effort to impose surcharges associated with a non-Section 251 product. Accordingly, under governing Massachusetts law, Verizon’s wholesale, intrastate UNE-P replacement product is offered on a common carrier basis and must be included in a tariff filed with and approved by the Department.²¹ Because of Verizon’s obfuscation on these points, the Department has inadvertently ignored CTC’s argument in Section III.B of its complaint that Verizon has failed to tariff its wholesale, common carrier, UNE-P replacement product and rates in M.D.T.E. No. 17 or some other appropriate tariff. The Department has also inadvertently ignored CTC’s argument in Section III.C of its Com-

¹⁹ Letter of Bruce P. Beausejour to Mary L. Cottrell, at 2 (January 4, 2005).

²⁰ CTC’s Complaint, at ¶¶ 8-13.

²¹ *Proceeding by the Department of Telecommunications and Energy on its own Motion to Implement the Requirements of the Federal Communications Commission’s Triennial Review Order Regarding Switching for Large Business Customers Served by High-Capacity Loops*, D.T.E. 03-59-B, Order Denying Motion of Verizon Massachusetts for Partial Reconsideration, at 7-8 (Dec. 15, 2004) (“*Reconsideration Order*”) (“Where Verizon offers enterprise switching on generally available terms pursuant to Section 271 and the FCC’s rules, it offers the service as common carriage and therefore must file a tariff for the service with the Department.”); *See, e.g., Clarification of Wholesale Tariffing Requirements*, Memorandum to Massachusetts Telecommunications Carriers and Interested Persons, Telecommunications Division (Aug. 12, 2003) (“*Wholesale Tariff Memorandum*”) (noting that all carriers offering services as “common carriage” are required to file tariffs).

plaint that Verizon's proposed surcharges for its UNE-P replacement product, offered on a common carrier basis, are unjust and unreasonable and should be rejected.²²

20. Finally, the Department's conclusion that "CTC's contractual rights are already being arbitrated in D.T.E. 04-33," is correct only to the extent that the Department is referring to CTC's rights to UNE-P under Sections 251 and 252(d) pursuant to its Massachusetts interconnection agreement.²³ However, the Department inadvertently fails to recognize that whether Verizon is required to file a tariff containing terms for its proposed wholesale, common carrier, non-Section 251, UNE-P replacement product and associated surcharges, and whether these terms and surcharges are just and reasonable will not be addressed in DTE No. 04-33.²⁴ Accordingly, the Department should not have dismissed CTC's Complaint and should determine on reconsideration that Verizon's surcharges and terms for its UNE-P replacement product are unjust and unreasonable as maintained in CTC's Complaint.

A. Verizon Sought To Impose Its UNE-P Replacement Product And Surcharges On a Common Carrier Basis By Sending Letters To All CLECs

21. In its January 4, 2005 letter to the Department, Verizon "disagrees with the Department's general finding that a state tariff is required for any service offered on

²² CTC Complaint, at ¶¶ 23-31 ("Verizon's purported surcharges are unlawful because they are not contained in the filed tariff schedule governing those services." *Id.* at ¶ 29. Verizon's purported equivalent resale rates for UNE-P services are unjust and unreasonable and violate state and federal law." *Id.* at ¶ 31.

²³ Order, at 3.

²⁴ See, *Petition for Verizon New England Inc. for Arbitration*, D.T.E. No. 04-33, Joint Matrix of Issues to be Arbitrated (filed Feb. 18, 2005).

generally available terms.”²⁵ Verizon dismisses the Department’s long-standing tariff requirements, and states that “[i]n any event, the issue is academic at this point, because Verizon MA intends to offer enterprise switching and other 271 arrangements in the state solely through individually-negotiated contracts.”²⁶

22. Notwithstanding its self-serving statement to the contrary, Verizon has not offered its UNE-P replacement product, which includes enterprise switching, “*solely* through individually-negotiated contracts.” CTC and Verizon have not entered into an individually negotiated contract – or *any* type of contract – for a UNE-P replacement product. Instead, Verizon engaged in aggressive self-help and sent a series of four standard letters to nearly every, if not every, CLEC in Massachusetts,²⁷ including CTC, stating that after August 22, 2004, it will continue to make enterprise level and Four Lines or More service UNE-P-like arrangements available to CLECs only at rates that include “surcharges” above and beyond the tariffed rates for the services it formerly offered at TELRIC pursuant to Sections 251 and 252(d).²⁸ Subsequently, Verizon began billing these surcharges to CTC and other CLECs for its proposed UNE-P replacement services.

23. Verizon sent its four letters to nearly all, if not all, of the CLECs operating in Massachusetts in an attempt to impose a UNE-P replacement product on CTC and nearly every other CLEC. By sending these letters to nearly every CLEC in Massachu-

²⁵ Letter of Bruce P. Beausejour to Mary L. Cottrell, at 1 (January 4, 2005).

²⁶ *Id.*, at 2.

²⁷ Verizon appears to have sent this series of letter to every CLEC in Massachusetts.

²⁸ CTC Complaint, at ¶¶ 8-10, 12 and Exhibits 1, 2, 3, and 4 thereof.

setts, Verizon offered its UNE-P replacement service indiscriminately on uniform terms; that is, on a common carrier basis. As observed by the U.S. Supreme Court, the touchstone as to whether a service is private carriage or common carriage is whether the company makes “individualized decisions, in particular cases, whether and on what terms to deal” with potential customers for the service.²⁹ Moreover, the Department has determined that “common carrier status turns on ‘(1) whether the carrier holds himself out to service indifferently all potential users; and (2) whether the carrier allows customers to transmit intelligence of their own design and choosing.’”³⁰ Verizon did not make an “individualized decision” in seeking to impose its surcharges; rather, Verizon sought to impose these charges on every CLEC unless their interconnection agreement expressly and unequivocally precluded this self-help measure. Verizon has clearly offered a new, wholesale, intrastate, UNE-P replacement service on a common carrier basis by sending its series of letters to every CLEC in the state.

B. Verizon Violated Massachusetts Law By Not Tariffing Its UNE-P Replacement Product And Surcharges

24. As recently as December 15, 2004, in a proceeding involving Verizon, the Department confirmed that Verizon must tariff any intrastate service that it offers on a common carrier basis, including an enterprise switching service. The Department stated:

It is important to reiterate that the Department continues to have jurisdiction over enterprise switching, if it is offered as common carriage. Far from being anomalous, requiring Verizon to file a wholesale tariff for en-

²⁹ *FCC v. Midwest Video Corp.*, 440 U.S. 689, 701 (1979); *National Ass’n of Regulatory Utility Commissioners et al. v. FCC*, 525 F.2d 630, 641 (D.C. Cir. 1976).

³⁰ *Wholesale Tariff Memorandum*, at 6 (quoting, *U.S. Telecom Ass’n v. FCC*, 295 F.3d 1326, 1329 (D.C. Cir. 2002)).

terprise switching merely recognizes that Verizon is to be treated just as any other carrier offering wholesale services as common carriage.³¹

The Department underscored that it “has general regulatory authority over intrastate common carrier services to enforce the obligation of every common carrier to file tariffs under state law” including, but not limited to, G.L. c. 159, sections 12 and 19.³² The requirement to tariff all rates for intrastate services offered on a common carrier basis in Massachusetts, does not depend “upon whether the service is wholesale or retail or upon the carrier’s dominant or nondominant status.”³³ Further, the Department does not have discretion to waive the requirement to file tariffs for common carrier services.³⁴ Thus, Verizon has violated well established law by failing to tariff its UNE-P replacement product and surcharges.

C. The Department Erroneously Concluded That the Issues Raised In CTC’s Complaint Will Be Addressed In Docket No. 04-33

25. As established above, Verizon has attempted to impose its non-Section 251, UNE-P replacement product and surcharges on a common carrier basis. Thus, Verizon is required to file a tariff with the Department regarding these services. The crux of CTC’s argument in Section III.B of its Complaint is that Verizon cannot impose its proposed UNE-P replacement terms and surcharges without first tariffing the service and obtaining Department approval.³⁵ The heart of CTC’s argument in Section III.C of its

³¹ *Reconsideration Order*, at 7-8; *Wholesale Tariff Memorandum*, at 5-6 (noting that all carriers offering services as “common carriage” are required to file tariffs pursuant to G.L. c. 159, section 19).

³² *Reconsideration Order*, at 8.

³³ *Wholesale Tariff Memorandum*, at 9.

³⁴ *Wholesale Tariff Memorandum*, at 8.

³⁵ CTC Complaint, at ¶¶ 23-26.

Complaint is that Verizon's surcharges are unlawful because "they are not contained in the filed tariff" and because they "are unjust and unreasonable."³⁶ Contrary to the Department's conclusion in its Order, none of these issues are slated to be addressed in D.T.E. 04-33. The Department made a mistake and erroneously dismissed CTC's Complaint on the assumption that the issues raised by CTC would be addressed in another docket.³⁷ The Department should grant CTC's Petition for Reconsideration.

VII. CONCLUSION AND RELIEF SOUGHT

WHEREFORE, CTC requests that the Department reconsider its decision, determine that CTC is entitled to relief, and enter an Order granting the following relief:

- (a) requiring Verizon to file tariff provisions including proposed terms and rates for its UNE-P replacements services that it seeks to impose on CLECs in Massachusetts;
- (b) prohibiting Verizon from billing CTC any surcharge or rate element for UNE-P or functionally equivalent services that is not contained in the aforementioned tariff;
- (c) requiring Verizon to credit CTC's account for any non-tariffed rates or surcharges billed by it to date, or during the pendency of this Complaint;

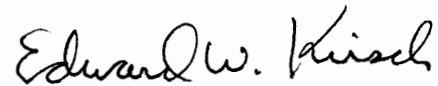
³⁶ CTC Complaint, at ¶¶ 27-31.

³⁷ It is not clear whether Verizon has proposed its UNE-P replacement products and surcharges in order to comply with its obligations under Section 271 of the Act. In any event, the Department possesses jurisdiction to require Verizon to tariff these intrastate terms and surcharges and to analyze them for compliance with the just and reasonable standard of federal and state law. Moreover, none of these questions will be addressed in D.T.E. 04-33. *Reconsideration Order*, at 8 ("Where Verizon offers enterprise switching [or a UNE-P replacement service] on generally available terms pursuant to Section 271 and the FCC's rules, it offers the service as common carriage and therefore must file a tariff for the service with the Department."); G.L. C. 159, §§ 12, 19.

(d) prohibiting Verizon from terminating, disconnecting, or in any way impairing its service to CTC due to CTC's refusal to pay the disputed surcharges that are the subject of this Complaint; and

(e) granting such other and further relief as may be just and equitable in the circumstances.

Respectfully submitted,



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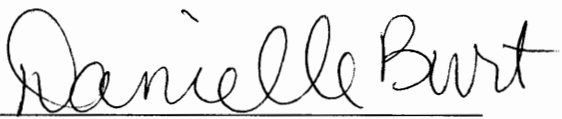
March 22, 2005

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2005, I caused a copy of the foregoing CTC Motion for Reconsideration to be served by overnight mail to the following:

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